IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 340 (S/B) of 2004

Yashwant Singh Rawat
S/o Late Sri Kundan Singh Rawat
R/o Harsh Kamal Colony Dhan Mill
Rampur Road
Haldwani
District Nainital ….Petitioner

Versus

State of Uttaranchal
Through Secretary,
Department of Labour
Uttaranchal
Shashan Dehradun
& others …..Respondents

Sri Alok Singh learned senior advocate
Assisted by Sri Gopal Narain counsel for the petitioner
Learned Standing Counsel for the respondents

Coram: Hon'ble Rajesh Tandon, J.
Hon'ble B.C. Kandpal, J.

Oral Judgment (per Hon'ble Rajesh Tandon, J.)

By the present writ petition, the petitioner has prayed for a writ, order or direction in the nature of certiorari quashing the seniority list dated 24.09.2004 issued by respondent No. 2 and further a writ of mandamus commanding the respondent no. 2 to decide the objection/representation dated 28.09.2004 filed against the seniority list dated 24.09.2004.

Briefly stated according to the case the petitioner was appointed on the post of Assistant Employment Officer on the recommendation of the U.P. Service Commission by the Director Training and Employment U.P. Lucknow vide order dated 02.02.1991.

The grievance of the petitioner is that before the creation of Uttaranchal State, the Director Training and Employment Lucknow issued a tentative seniority list on 23.09.2004 in which petitioner has made an objection regarding his seniority list on 04.10.2000 stating therein that junior to the petitioner has been put above in the seniority list.

Now the petitioner is working in the State of Uttaranchal on the post of District Employment Officer officiating as Assistant Director (Employment) Training and Employment Department.

On 24.09.2004, the respondent no. 2 has issued a tentative seniority list of the District Employment Officer and Assistant/District Employment Officer working in the State of Uttaranchal which was published and after receiving the said seniority list, the petitioner was again put below junior to the District Employment Officer and hence he made a representation on 28.09.2004 and the same is still pending.

Counsel for the petitioner has confined his prayer only for the disposal of the representation dated 28.09.2004 filed against the seniority list dated 24.09.2004.

The Apex Court in the case of **Dr. Chandra Prakash & others Vs. State of U.P. and another in Writ Petition (Civil) No. 43 of 1998** has observed as under:-

> *"We accordingly allow the writ petitions and declare that 1) the writ petitioners are not within the purview of the 1979 Rules. 2) the state Government will fix the seniority of all doctors in the PMHS cadre from the date of the orders of their initial appointment within a period of six weeks from the date of this order and give all consequential benefits including promotions and*

positions on the basis of such seniority list, 3) Those doctors who are selected in 1972 and 1977-78-79 by the PSC and who were not issued nay orders of appointment and joined the service on the basis of Tandon's case, will be treated as having been appointed on the date that they actually joined the service and their seniority will be courted from that date. There will be no order as to costs. "

We are of the opinion that since the representation of the petitioner is till pending and has not been disposed of concerning the seniority of the petitioner, the respondents are directed to decide the representation of the petitioner after considering the judgment of the Apex Court in **Dr. Chandra Prakash & others Vs. state of U.P. and another in Writ Petition (Civil) No. 43 of 1998.**

The writ petition is disposed of accordingly.

(B.C. Kandpal, J.) **(Rajesh Tandon, J.)**

01.11.2004
ASWAL